

**SUBCHAPTER D : APPEALS OF CITY ACTIONS RELATING TO
WATER POLLUTION CONTROL AND ABATEMENT
OUTSIDE THE CORPORATE LIMITS OF A CITY**

§86.51. General.

This subchapter applies to appeals to the commission from actions of a city relating to water pollution control and abatement outside the corporate limits of such city, initiated under Texas Water Code, §26.177(c).

Adopted May 8, 1996
Derived from §275.51

Effective June 6, 1996

§86.52. Petition by an Affected Person.

Any person affected by a city's ruling, order, decision, ordinance, program, resolution, or any other act, relating to water pollution control and abatement outside the corporate limits of such city and adopted under Texas Water Code, §26.177, or any other statutory authorization, may appeal the city's action by filing a petition for review with the commission.

Adopted May 8, 1996
Derived from §275.52

Effective June 6, 1996

§86.53. Issues on Appeal.

The issues on appeal are whether the action or program of the city is invalid, arbitrary, unreasonable, inefficient, or ineffective in its attempt to control water quality.

Adopted May 8, 1996
Derived from §275.53

Effective June 6, 1996

§86.54. Prerequisites to Appeal.

The following are prerequisites to appeal under Texas Water Code, §26.177(c).

(1) Filing of a petition. Any appeal to the commission under this subchapter requires the filing of a petition for review with the executive director within 60 days of the enactment of the ruling, order, decision, ordinance, program, resolution, or act of the city. The petition must be accompanied by a certificate of service.

(2) Service of pleadings. A copy of the petition for review and all other pleadings shall be mailed by first-class mail or delivered to the city whose action is being appealed.

(3) Filing fee. Each petition shall be accompanied by a filing fee of \$100.

(4) Hearing. A time and place for hearing on the matter(s) in dispute shall be set and the commission shall issue notice of the time and place of hearing. The party seeking commission action is responsible for the cost of required notice.

Adopted May 8, 1996
Derived from §275.54

Effective June 6, 1996

§86.55. Contents of Petition for Review.

The petition shall contain:

(1) the name of the party seeking commission action, with the original copy of the pleading signed by the petitioner or the petitioner's authorized representative;

(2) the business phone number and address of the city whose action is being appealed and the city's authorized representative, if any;

(3) a clear and concise statement that the petition for review is an appeal of a specific action of the municipality in question, as well as a concise description and date of the action;

(4) a copy of the applicable ruling, order, decision, ordinance, program, resolution, or other act of the city, if any;

(5) a list of the known persons and areas which might be affected if the petition is granted;

(6) a concise statement of the facts relied upon by the pleader;

(7) a prayer stating the type of relief, action, or order desired by the pleader; and

(8) any other matter required by statute.

Adopted May 8, 1996
Derived from §275.55

Effective June 6, 1996

§86.56. Answer.

Not later than the 20th day after the date on which the city receives a copy of the petition for review, the city may submit to the executive director an answer in defense of the action from which the appeal is taken.

Adopted May 8, 1996
Derived from §275.56

Effective June 6, 1996

§86.57. Review by Commission.

The commission shall hear the appeal and may, in its final order, affirm, overturn, or modify the action of the city from which the appeal was taken. The commission, on its own motion, or at the request of any party to an appeal, may refer the appeal to SOAH for hearing prior to commission decision. If the commission issues an order without prior referral to SOAH, the record on any appeal from the commission's order under §86.59 of this title (relating to Appeal of Commission Order) shall include the pleadings of all parties, including attachments, and the argument and testimony before the commission, except where specifically indicated in the commission's order.

Adopted May 8, 1996
Derived from §275.57

Effective June 6, 1996

§86.58. Consolidation.

The commission may consolidate any or all of the appeals, if any, which relate to the action in question of the city.

Adopted May 8, 1996
Derived from §275.58

Effective June 6, 1996

§86.59. Appeal of Commission Order.

If an appeal is taken from a commission order, the commission order shall remain in effect for all purposes until final disposition is made by a court of competent jurisdiction.

Adopted May 8, 1996
Derived from §275.59

Effective June 6, 1996

Adoption of §§86.51-86.59
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Derivation Table
Chapter 86 - Special Provisions for Contested Case Hearing
Subchapter D : Appeals of City Actions Relating to Water Pollution Control and Abatement
Outside the Corporate Limits of a City

This table is to be used to track sections after rule revisions. The column on the left should list the sections after the revision. The column on the right should list where the section was prior to the revision.

New Section	Old Section
86.51	275.51
86.52	275.52
86.53	275.53
86.54	275.54
86.55	275.55
86.56	275.56
86.57	275.57
86.58	275.58
86.59	275.59